IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

MONDAY, THE 6TH AUGUST 2007 / 15TH SRAVANA 1929

WP(C).No. 21706 of 2005(H)

CMA.7/2004 of D.C. & SESSIONS COURT,KOZHIKODE
OS.414/1999 of PRL.M.C.,KOZHIKODE-II
(IN IA 5376/2002.)
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PETITIONER:

VADAKKEL ELIKUTTY, W/O.KANNUR RAJAN,
PACHAKKIL, MALAPPARAMBA, CHEVAYUR AMSOM AND
DESOM, KOZHIKODE TALUK.

BY ADV. SRI.P.KURUVILLA JACOB

RESPONDENTS: 1
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1. REVATHI, W/O.LATE CHITHRANGADHAN,
AGED 75 YEARS, SUDARSHANAM, PACHAKKIL MALAPPURAMBA
CHEVAYUR AMSOM AND DESOM, KOZHIKODE TALUK.

2. THANOOJA, D/O.REVATHI, SUDARSHANAM
PACHAKKIL, MALAPPARAMBA, CHEVAYUR AMSOM AND DESOM,
KOZHIKODE TALUK.

3. UNNIKRISHNAN, S/O.REVATHI,
SUDARSHANAM, CHEVAYUR AMSOMAND DESOM, PACHAKKIL,
MALAPPARAMBA, CHEVAYUR AMSOM AND DESOM,
KOZHIKODE TALUK.

BY ADV. SRI.P.T.MOHANKUMAR
SMT.ARLISS TRENCY ANTONY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 06/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PIUS C. KURIAKOSE, J.

W.P.(C) No. 21706 OF 2005

Dated this the 6th day of August, 2007

JUDGMENT

Ext.P3 order by which the learned Munsiff dismissed IA No.1974 of 2003 which was an application filed by the petitioner plaintiff for enlargement of time for payment of cost Rs.1,000/- which had been payable as per order in IA No.5376 of 2002 is under challenge.

Having considered the rival submissions made at the Bar and in view of the materials placed on record, particularly, Exts.P1 and P2 treatment records, issued respectively by Kasturba Hospital, Manipal and Shirdi Saibaba Cancer Hospital, Manipal, I am of the view that by way of indulgence the petitioner can be permitted to comply with the conditions imposed in IA No.5376 of 2002 imposing more stringent conditions. Accordingly, setting aside this impugned order, I allow IA No.1974 of 2003 and enlarge the time to the petitioner for being the cost ordered in IA 5376 of 2002 till 04.09.07, on condition that the petitioner pays a total amount of Rs.5,000/- by way of cost. Out of the above amount, Rs.4,000/- will be paid by the petitioner inclusive of the cost originally ordered as per IA No.5376 of 2002 to the respondent through their advocate in the court below and the balance amount of Rs.1,000/- will be paid within the same time limit to the High Court Legal Services

Committee. If payment of cost as ordered above is not made, the impugned order will stand confirmed and the Writ Petition will stand dismissed. But, once it is seen that the petitioner has paid the total amount of Rs.5,000/- inclusive of the original cost of Rs.1,000/- within the time limit under this judgment, the court below will re-post the suit for trial, in special list and dispose of the suit in accordance with law.

PIUS C. KURIAKOSE, JUDGE

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